

**Introduced by Senator Calderon**

February 21, 2007

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An act to amend Sections 82015 and 83124 of the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 381, as introduced, Calderon. Campaign contributions.

Existing provisions of the Political Reform Act of 1974 define the term "contribution" and includes criteria to be applied in determining whether a payment made at the behest of a candidate is excluded from this definition. Payments made "principally for legislative, governmental, or charitable purposes" are among these exclusions, although other reporting requirements are imposed with respect to these payments when they exceed \$5,000.

This bill would extend the time within which these payments must be reported from 30 to 90 days, and would increase the aggregate threshold amount which must be reported from \$5,000 to \$7,000. The bill would exclude a payment by a local, state, or federal agency from this reporting requirement.

This bill would also exempt reporting with respect to payments made in response to press releases, in interviews or public services announcements, or in communications that identify the elected officer only as part of a listing, as described, and provide that reporting is required only if the elected officer knows or has reason to know that a payment was made at his or her behest.

Existing law requires the Fair Political Practices Commission to adjust specified contribution and voluntary expenditure limitations to reflect any increase or decrease in the Consumer Price Index.

This bill would also require that the commission to adjust the reporting threshold for the above payments to reflect any increase or decrease in the Consumer Price Index.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 82015 of the Government Code is  
2     amended to read:  
3     82015. (a) "Contribution" means a payment, a forgiveness of  
4     a loan, a payment of a loan by a third party, or an enforceable  
5     promise to make a payment except to the extent that full and  
6     adequate consideration is received, unless it is clear from the  
7     surrounding circumstances that it is not made for political purposes.  
8     (b) (1) A payment made at the behest of a committee as defined  
9     in subdivision (a) of Section 82013 is a contribution to the  
10    committee unless full and adequate consideration is received from  
11    the committee for making the payment.  
12    (2) A payment made at the behest of a candidate is a contribution  
13    to the candidate unless the criteria in either subparagraph (A) or  
14    (B) are satisfied:  
15    (A) Full and adequate consideration is received from the  
16    candidate.  
17    (B) It is clear from the surrounding circumstances that the  
18    payment was made for purposes unrelated to his or her candidacy  
19    for elective office. The following types of payments are presumed  
20    to be for purposes unrelated to a candidate's candidacy for elective  
21    office:  
22    (i) A payment made principally for personal purposes, in which  
23    case it may be considered a gift under the provisions of Section  
24    82028. Payments that are otherwise subject to the limits of Section  
25    86203 are presumed to be principally for personal purposes.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(iii) A payment not covered by clause (i), made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution. However, *except for a payment by a local, state, or federal government agency*, payments of this type that are made at the behest of a candidate who is an elected officer shall be reported within ~~30~~ 90 days following the date on which the payment or payments equal or exceed ~~five~~ *seven* thousand dollars ~~(\$5,000)~~ *(\$7,000)* in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the elected officer with the elected officer's agency and shall be a public record subject to inspection and copying pursuant to the provisions of subdivision (a) of Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the ~~five~~ *seven* thousand dollars ~~(\$5,000)~~ *(\$7,000)* aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source must be disclosed within ~~30~~ 90 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies shall forward a copy of these reports to the Fair Political Practices Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.

(iv) *Subject to clause (v), an elected officer is not required to report a payment pursuant to clause (iii) if the payment is made in response to a press release sent to members of the media, in an interview with the elected officer or a public service announcement that is broadcast or printed by members of the media, or in a communication that identifies the elected officer only as part of a listing or roster that includes the name of the elected officer and other individuals listed appear in the same type size, typeface, and type color.*

1     (v) *An elected officer is required to report a payment pursuant*  
2 *to clause (iii) only if the elected officer knows, or has reason to*  
3 *know, that a payment was made at his or her behest.*

4     (C) For purposes of subparagraph (B), a payment is made for  
5 purposes related to a candidate's candidacy for elective office if  
6 all or a portion of the payment is used for election-related activities.  
7 For purposes of this subparagraph, "election-related activities"  
8 shall include, but are not limited to, the following:

9     (i) Communications that contain express advocacy of the  
10 nomination or election of the candidate or the defeat of his or her  
11 opponent.

12     (ii) Communications that contain reference to the candidate's  
13 candidacy for elective office, the candidate's election campaign,  
14 or the candidate's or his or her opponent's qualifications for  
15 elective office.

16     (iii) Solicitation of contributions to the candidate or to third  
17 persons for use in support of the candidate or in opposition to his  
18 or her opponent.

19     (iv) Arranging, coordinating, developing, writing, distributing,  
20 preparing, or planning of any communication or activity described  
21 in clauses (i), (ii), or (iii), ~~above~~.

22     (v) Recruiting or coordinating campaign activities of campaign  
23 volunteers on behalf of the candidate.

24     (vi) Preparing campaign budgets.

25     (vii) Preparing campaign finance disclosure statements.

26     (viii) Communications directed to voters or potential voters as  
27 part of activities encouraging or assisting persons to vote if the  
28 communication contains express advocacy of the nomination or  
29 election of the candidate or the defeat of his or her opponent.

30     (D) A contribution made at the behest of a candidate for a  
31 different candidate or to a committee not controlled by the  
32 behesting candidate is not a contribution to the behesting candidate.

33     (c) The term "contribution" includes the purchase of tickets for  
34 events such as dinners, luncheons, rallies, and similar fundraising  
35 events; the candidate's own money or property used on behalf of  
36 his or her candidacy other than personal funds of the candidate  
37 used to pay either a filing fee for a declaration of candidacy or a  
38 candidate statement prepared pursuant to Section 13307 of the  
39 Elections Code; the granting of discounts or rebates not extended  
40 to the public generally or the granting of discounts or rebates by

1 television and radio stations and newspapers not extended on an  
2 equal basis to all candidates for the same office; the payment of  
3 compensation by any person for the personal services or expenses  
4 of any other person if the services are rendered or expenses incurred  
5 on behalf of a candidate or committee without payment of full and  
6 adequate consideration.

7 (d) The term “contribution” further includes any transfer of  
8 anything of value received by a committee from another committee,  
9 unless full and adequate consideration is received.

10 (e) The term “contribution” does not include amounts received  
11 pursuant to an enforceable promise to the extent those amounts  
12 have been previously reported as a contribution. However, the fact  
13 that those amounts have been received shall be indicated in the  
14 appropriate campaign statement.

15 (f) The term “contribution” does not include a payment made  
16 by an occupant of a home or office for costs related to any meeting  
17 or fundraising event held in the occupant’s home or office if the  
18 costs for the meeting or fundraising event are five hundred dollars  
19 (\$500) or less.

20 (g) Notwithstanding the foregoing definition of “contribution,”  
21 the term does not include volunteer personal services or payments  
22 made by any individual for his or her own travel expenses if the  
23 payments are made voluntarily without any understanding or  
24 agreement that they shall be, directly or indirectly, repaid to him  
25 or her.

26 SEC. 2. Section 83124 of the Government Code is amended  
27 to read:

28 83124. (a) The commission shall adjust the contribution  
29 limitations and voluntary expenditure limitations provisions in  
30 Sections 85301, 85302, 85303, and 85400 in January of every  
31 odd-numbered year to reflect any increase or decrease in the  
32 Consumer Price Index. Those adjustments shall be rounded to the  
33 nearest one hundred dollars (\$100) for limitations on contributions  
34 and one thousand dollars (\$1,000) for limitations on expenditures.

35 (b) *The commission shall adjust the reporting threshold in*  
36 *Section 82015 in January of every odd-numbered year to reflect*  
37 *any increase or decrease in the Consumer Price Index. That*  
38 *adjustment shall be rounded to the nearest one hundred dollars*  
39 *(\$100).*

1 SEC. 3. The Legislature finds and declares that this bill furthers  
2 the purposes of the Political Reform Act of 1974 within the  
3 meaning of subdivision (a) of Section 81012 of the Government  
4 Code.

5 SEC. 4. This act is an urgency statute necessary for the  
6 immediate preservation of the public peace, health, or safety within  
7 the meaning of Article IV of the Constitution and shall go into  
8 immediate effect. The facts constituting the necessity are:

9 To amend existing law regarding contributions to political  
10 candidates and the filing of campaign statements, it is necessary  
11 that this act take effect immediately.